IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 181 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HEMANTSINGH SAMANTSING BECHARSING

Versus

LAXAMSING AMARSING

Appearance:

MS MEGHA JANI for Petitioners

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 14/02/2001

ORAL JUDGEMENT

1. The Revisioners are the defendants in Regular Civil Suit no. 272/1997 pending before Joint Civil Judge (Junior Division) Mirzapur at Ahmedabad. The plaintiffs preferred the suit against defendants in respect of Vada No. 22 situate at Village Devadi at Taluka Daskroi,

District Ahmedabad. According to the plaintiff Vada No. 22 is encroached upon by the defendant on the nothern side and therefore the suit is preferred for declaration and injunction against defendants restraining the defendants from putting up any construction on this suit land. The plaintiff also preferred an application Exh. 5 for temporary injunction pending the suit. The suit and application for injunction was opposed to by the defendants/ present Revisioners. After considering the rival side cases the Trial Court came to the conclusion that the plaintiff is able to establish prima-facie case and that the balance of convenience is in favour of the plaintiff and the plaintiff is likely to suffer irreparable loss if indulgence is not shown. The Trial Court therefore allowed application Exh. 5 and granted injunction against the defendants.

2. Aggrieved by the said order dt. 16.03.1998 the defendants preferred Civil Miscellaneous Appeal No. 55/98 in the District Court, Ahmedabad (Rural) at Mirzapur, Ahmedabad. The learned Second Joint District Judge, Ahmedabad (Rural) after hearing both the sides ultimately dismissed the appeal by judgement and order dt. 23.03.2000. Aggrieved by the said judgement and order present Revision Application is preferred.

3. Heard Ms. Megha Jani for the Revisioners. She has taken this Court through the judgement and order of both the Courts below. There are concurrent finding of both the Courts below on facts Ms. Megha Jani was at loss to indicate any legal or factual error in the orders of the Courts below. The Courts below have perused the record thoroughly and have thereafter come to the conclusion that prima-facie the plaintiff has good case and that the defendants version regarding the defendants being in possession of the suit land for a period of more than thirty years cannot be accepted prima-facie. This Court finds no error in such conclusion. No jurisdictional error is found or indicated. The Revision Application therefore must fail and the same is rejected. No costs.

(A.L. DAVE, J.)

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